

Kennecott Eagle Minerals
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CONFIDENTIAL SETTLEMENT COMMUNICATION

August 26, 2010

via Electronic and First Class Mail

Mr. Robert Kaplan
Regional Counsel, Region 5
U.S. Environmental Protection Agency
Mail Code C-14J
77 West Jackson Avenue
Chicago, Illinois 60604-3507

Re: Kennecott Proposal to Settle “Water Issues” with Keweenaw Bay Indian Community

Dear Mr. Kaplan:

We appreciate the efforts of EPA Region 5 to facilitate a resolution of certain outstanding issues involved in the ongoing litigation challenging permits issued to Kennecott Eagle Minerals (“Kennecott”) for its Eagle Mine in Marquette County, Michigan. Kennecott fully believes that its groundwater discharge permit (GWDP) issued by the State of Michigan protects the groundwater in the area. Nonetheless, in an effort to facilitate resolution of any and all water issues involved in this litigation, Kennecott submits this proposal.

In accordance with our prior discussions on the matter, Kennecott offers to undertake the following steps in exchange for Keweenaw Bay Indian Community’s (“KBIC”) and other co-competitors agreement to settle and withdraw the challenge to the MDNRE’s issuance of a Part 31 GWDP for the Kennecott Eagle Mine. This offer is subject to acceptable completion of the necessary legal documents to accomplish the objectives stated above:

1. Kennecott will install an additional groundwater monitoring well to the northeast of the treated water infiltration system (“TWIS”) to alleviate KBIC’s concerns about groundwater flow direction in that area. The well depth and specific location will be determined after consultation with KBIC.
2. Kennecott, on an annual basis, will monitor for BTEX in the treated effluent from the waste water treatment plant to address KBIC’s concerns about pollutants associated with vehicle/mechanical operations at the mine site.
3. Kennecott, on an annual basis, will monitor for radionuclides in the waste water treatment plan effluent. Specifically, Kennecott will monitor for alpha particles, beta particles and proton emitters, uranium and radium.

4. Kennecott will agree to interpret and abide by Special Condition L.16 in its Part 632 Permit (mine permit) as requiring diversion and re-treatment of effluent from the waste water treatment plant if monitoring of specific conductance falls outside the operational ranges for the period specified in the Part 31 Permit GWDP, as determined by the monitoring requirements specified in the GWDP. This should address KBIC's concerns about having a hard "trigger point" to cease discharges if the waste water treatment plant is not operating properly.
5. Kennecott's offer to implement items through 1-4 above is contingent on MDNRE agreeing that these measures can be incorporated into the GWDP as minor modifications to the permit.

Kennecott appreciates EPA's efforts to facilitate a dialogue and potential settlement of differences between KBIC and Kennecott. Kennecott remains willing to meet with EPA and/or KBIC to continue to explore potential avenues for settlement for other issues of concern to KBIC.

Sincerely,



Jonathan C. Cherry, PE
General Manager
Kennecott Eagle Minerals

Cc: Joanna Glowacki (via email)